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correction converter for preventing conducted interference from feeding back onto a.c. power lines connected to the electrical input; and
a traffic, pedestrian or rail crossing signal housing enclosing the rectifier (32),
power factor correction converter (38) and LED array (12).

REMARKS

In response to the Office Action mailed March 24, 2000, Patentee submits the following amendment and remarks. Patentee thanks the Examiner for allowing claims 14-23, and for finding claims 6-13 allowable. Patentee also thanks the Examiner for his hospitality during the interview of April 25, 2000. In view of the amendment and the remarks below, Patentee respectfully requests allowance of all claims.

Status of the Litigation

As should be evident from Patentee's submissions, the patent subject to this reissue application is in litigation. Claims 1-2 and 4-6 are in the litigation. Partial (not final) judgment was entered, and the District Court's invalidity rulings are being vigorously contested on appeal. Thus claims 1-2 and 4-6 are properly within the scope of examination during reissue. See Ethicon v. Quigg, 849 F.2d 1422, 1429, 7 U.S.P.Q.2d 1152, 1157 (Fed. Cir. 1988) ("[I]f a court finds a patent invalid, *and that decision is either upheld on appeal or not appealed*, the PTO may discontinue its reexamination." Emphasis added.). Oral argument in the Court of Appeals for the Federal Circuit is not expected until late summer at the earliest, with any appellate decision possibly not issuing until up to a year later. The District Court's opinion, and Patentee's appeal brief, were earlier submitted in an IDS.

Specification

The Examiner requested a substitute specification pursuant to 37 C.F.R. 1.125(a). Patentee herewith submits a substitute specification.

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Rewritten Claims 5 and 6

Claim 6 has been held allowable. Patentee has rewritten formerly dependent claims 5 and 6 as independent claims. Care has been taken to rewrite claims 5 and 6 to be exactly identical as before, with the exception of a more grammatical placement of the word “and” between claim elements.

As discussed at the interview, none of the art of record (including that raised in the litigation) teaches or suggests an adaptive clamp as claimed. Claim 6 has already been held allowable; claim 5 should be as well. For the same reasons, the Examiner should hold dependent claim 40 and independent claim 44 allowable, too.

Prior Art Rejections

Patentee respectfully traverses all prior art rejections.

Claims 1, 2, 4 and 26: Claims 1, 2, 4 and 26 stand rejected as anticipated under 35 U.S.C. § 102(a) over Johnson, Figs. 8 or 9. Johnson does not anticipate (or render obvious) the rejected claims. Patentee respectfully requests withdrawal of the rejection and early allowance.

Patentee has amended claims 1, 24-35 and 45. Patentee emphasizes that the amendment of claim 1 leaves that claim (and those still dependent from it) identical in scope in the sense of 35 U.S.C. § 252. The addition of the language, “defined as consisting of a large number of series-parallel connected LED devices,” to modify “LED array (12)” merely sets forth the definition of “LED array (12)” that the claim already inherently possesses. The amendment is made for purposes of clarity only, and signals no change in scope or intent to change the claim in scope.

First, Johnson Figs. 8 and 9 clearly lack an LED array, defined as consisting of a large number of series-parallel connected LED's. Only a series row of LED's is disclosed. Johnson

therefore cannot anticipate.

Claim 2: In addition to the foregoing reasons, claim 2 is not anticipated by Johnson for the additional reason that Johnson does not disclose a buck/boost power factor correction converter.

Claim 4: In addition to the foregoing reasons, claim 4 is not anticipated by Johnson for the additional reason that Johnson does not disclose an EMI filter.

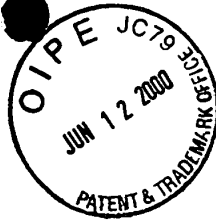
Claim 26: In addition to the foregoing reasons, claim 26 as amended is not anticipated by Johnson for the additional reason that Johnson does not disclose a traffic, pedestrian or rail crossing signal. Johnson, rather, shows a light bulb for exit signs.

Since Johnson clearly lacks one or more limitations, claims 1, 2, 4 and 26 must be found not to be anticipated by Johnson. Further, it would not have been obvious to modify Johnson to provide an LED array as defined in the claims at least for all the reasons stated in Relume's appeal brief, pages 28-31.

Claims 3, 5, 24-45: Claims 3, 5, 24-35, 44, 45 and all various dependencies of claims 36-43 stand rejected under 35 U.S.C. § 103 as unpatentable over Johnson in view of Hochstein, U.S. Patent No. 5,633,629. Patentee respectfully requests withdrawal of the rejection and early allowance.

Initially, Patentee notes that the Hochstein '629 patent cannot be applied against the rejected claims. It names the same inventor as the present reissue application, did not issue until after the '645 patent application was filed, and is thus not "prior art." In addition, each rejected claim contains at least one claim element that distinguishes over Johnson, particularly as those claims have now been amended.

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CONCLUSION

For the foregoing reasons, Patentee respectfully requests early allowance of the reissue claims. If there are any questions, the Examiner is encouraged to contact the undersigned.

Respectfully submitted,

HOWARD & HOWARD ATTORNEYS, P.C.

6/7/00
Date

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CERTIFICATE OF MAILING

I hereby certify that this Response is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to the U.S. Patent and Trademark Office, Washington, D.C. 20231 on June 7, 2000.

Anne L. Winchester
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